

(2015) 04 JH CK 0085
In the Jharkhand High Court
Case No : WP(C) No. 1346 of 2015

Vijay Shankar Jha and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-04-2015

Acts Referred:

Citation : (2015) 2 JLJR 319

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Pratyush Kumar, for the Appellant; Ajit Kumar, Advocates for the Respondent

Judgement

S. Chandrashekhar, J.

1. Aggrieved by order dated 21.3.2015 and also seeking quashing of order contained in letter dated 12.7.2013, the, present writ petition has been filed by six persons who applied for allotment of plot/flat/house pursuant to advertisement dated 25.6.2011, issued by the Jharkhand State Housing Board. The petitioners have averred that they paid 10% of the total price for the plot/flat/house allotted to them pursuant to draw of lottery held on 20.8.2011. The allotment order was issued on 10.9.2011 and thereafter, the petitioners made payment of additional 15% of the total consideration amount. It is further submitted that thereafter, the petitioners have paid the entire consideration amount. In the writ petition serious allegations against respondent Nos. 9 and 10 have been made.

2. The learned Senior Counsel for the petitioners submits that after Agreement was executed between the parties, allotment made in favour of the petitioners can be cancelled only on the ground of breach of conditions of allotment or on the ground of misrepresentation or fraud played by the petitioners. It is submitted that the allotment in favour of the petitioners can be cancelled by the lessor which is the Jharkhand State Housing Board and not the State of

Jharkhand which is not a privy to the Agreement between the parties. Referring to Section 15(c) of the Bihar Housing Board Act, 1982 (which was adopted by the State of Jharkhand), the learned Senior Counsel for the petitioners submits that no irregularity is indicated in the impugned order dated 21.3.2015 which would fall under the expression "serious infirmity warranting cancellation of the allotment".

3. As against the above, the learned counsel for the respondent-State of Jharkhand submits that in view of the enquiry conducted in the matter, when gross irregularities in lottery and allotment of plot/flat/house were detected, a decision was taken to cancel the entire allotment and make fresh allotments. The said decision has been taken in larger public interest and therefore, requires no interference by this Court.

4. The learned counsel for the respondent-State of Jharkhand further submits that in view of the Hire-Purchase Agreement executed between the parties, the petitioners have no substantial right to challenge the cancellation of allotment. The learned counsel for the respondent-Jharkhand State Housing Board submits that the Housing Board has also taken a decision on 7.4.2015 in tune with the decision taken by the respondent-State.

5. The learned counsel for the respondent-Housing Board has also opposed the prayer made in the writ petition.

6. Considering the submissions raised on behalf of the rival parties and after perusing the documents on record, I am of the opinion that the matter requires hearing.

7. Issue notice to respondent Nos. 9 and 10 under registered cover with A/D as well as by ordinary process for which requisites etc. must be filed within a period of two weeks. Dasti in addition.

8. The petitioners are permitted to file affidavit of proof of service of dasti notice upon the respondent Nos. 9 and 10 within four weeks.

9. Post the matter after four weeks. From the materials brought on record, it appears that Hire-Purchase Agreement has been executed between the petitioners and the Jharkhand State Housing Board which is a registered instrument. It further appears that the petitioners have taken a plea that before taking a decision to cancel the allotment made to them, no show-cause notice was issued to the petitioners. The impugned order dated 21.3.2015 does not disclose an active role played by the petitioners which resulted in the alleged gross irregularities in allotment of the plot/flat/house. Considering the above facts, the parties are directed to maintain "status quo" as on today. It is made clear that the order passed in the writ petition shall be confined to the petitioners only.